

Kenneth Covell
LAW OFFICE OF KENNETH COVELL
712 Eighth Avenue
Fairbanks, AK 99701
Phone: (907) 452-4377
Fax: (907) 451-7802
E-mail: kcovell@gci.net

Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT FAIRBANKS

ROBERT PROBERT and LORETTA E.
PROBERT, and others similarly situated,

Plaintiffs,

vs.

FAMILY CENTERED SERVICES OF
ALASKA, INC. and DOES I to X, (Managerial
Employees Jointly Liable)

Defendants.

Case No. 4:07-cv-00030-RRB

DECLARATION BY ROBERT PROBERT

I, ROBERT PROBERT, declare and state that:

- 1) I am an adult resident of the State of Alaska, fully competent to testify and I testify about the following facts upon my personal knowledge.

2) I was employed as a "houseparent" by Defendant Family Centered Services of Alaska, Inc. (hereafter FCSEA).

3) When hired, FCSEA originally classified me as a non-exempt employee (Exh. ##) and then changed this designation to exempt employee. (Exh. ##) FCSEA later represented to me that I was not entitled to non-exempt status based upon the Alaska Wage and Hour Act. FCSEA told me nothing about the Federal Fair Labor Standards Act (FLSA).

4) On September 20, 2007, I wrote to FCSEA and advised that I did not think that I was exempt from overtime and requested either a reason why the FLSA did not apply or for FCSEA to make arrangements for FCSEA to pay me what was due. No response to my letter was had. No further payment of money owed to me was made.

5) The persons living at the various FCSEA centers are almost all severely mentally ill, Severely Emotionally Disturbed (SED) or defective. They all received psychological counseling. Some are so dysfunctional that they cannot attend regular schools and are tutored at FCSEA. As a houseparent it was my job to assist in the care of these SED children.

6) Despite any stated purpose to the contrary, the primary reason FCSEA exists is to care for SED children.

7) Sources for FCSEA's income include Medicaid and *per diem* payments and money from other sources.

8) My working hours per week at FCSA sometimes exceeded forty (40) hours per week and entitled me to overtime. I was paid on an hourly basis, and not on a weekly basis by FCSA.

9) At least half of the residents of FCSA have been subject to evaluations of mental or emotional disturbance by a qualified practitioner, either subsequent to or preceding admission, as the cause for referral.

10) On information and belief, FCSA is an institution primarily engaged in (i.e., more than 50% of the income is attributable to) providing domiciliary care to individuals who reside on the premises. The individual residents are either referred by a psychological professional or seen and diagnosed shortly after arrival.

Declaration

I declare under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct.

Executed on December 20, 2007.

A handwritten signature in black ink, appearing to read 'Robert Probert', is written over a horizontal line.

Robert Probert